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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054055
Party	Defendant Athletic Foundation Srpska, Inc.
Correspondence Address	KENNETH S MCLAUGHLIN JR ESP KREUZER CORES MCLAUGHLIN LLP 400 S COUNTY FARM ROAD, SUITE 200 WHEATON, IL 60187 UNITED STATES kmclaughlin@ekcmlawfirm.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Kenneth S. McLaughlin, Jr.
Filer's e-mail	kmclaughlin@ekcmlawfirm.com
Signature	/Kenneth S. McLaughlin, Jr./
Date	08/05/2011
Attachments	Response to Motion to Strike with exhibit 080511.pdf (6 pages)(254800 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 3,823,417 and 3,823,424: FK REPUBLIKA SRPSKA
Registration Date: July 20, 2010

FK REPUBLIKA SRPSKA,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92054055
	)	
ATHLETIC FOUNDATION SRPSKA, INC.	)	
	)	
	)	
Registrant.	)	

ATHLETIC FOUNDATION SRPSKA, INC'S RESPONSE TO MOTION TO STRIKE AFFIRMATIVE DEFENSES AND MOTION FOR LEAVE TO AMEND

ATHLETIC FOUNDATION SRPSKA, INC., an Illinois not-for-profit corporation, having a principal place of business at 328 E. Union Ave., Wheaton, Illinois, 60187 ("Registrant"), and for its Response to Motion to Strike Affirmative Defenses and Motion for Leave to Amend Affirmative Defenses, states as follows:

In response to the Motion to Strike, Registrant seeks leave to amend its Affirmative Defenses, *instanter*, to allege additional facts in support thereof. A copy of the proposed Amended Affirmative Defenses are attached hereto as Exhibit "A".

Respectfully Submitted,

ESP, KREUZER, CORES & McLAUGHLIN, LLP

By: /s/ Kenneth S. McLaughlin, Jr.

Kenneth S. McLaughlin, Jr.
ARDC No. 6229828 (Illinois)
400 South County Farm Road, Suite 200
Wheaton, IL 60187

(630) 344-6546
(630) 871-0224
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Attorney for Registrant

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 5, 2011, he served a copy of the above-referenced Response to Motion to Strike via email only (by agreement) to:

Phillip Barengolts
David Hwang
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, LLP
311 South Wacker Drive, Suite 5000
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/s/ Kenneth S. McLaughlin, Jr.
Kenneth S. McLaughlin, Jr.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration Nos. 3,823,417 and 3,823,424: FK REPUBLIKA SRPSKA
Registration Date: July 20, 2010

FK REPUBLIKA SRPSKA,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92054055
	)	
ATHLETIC FOUNDATION SRPSKA, INC.	)	
	)	
	)	
Registrant.	)	

ATHLETIC FOUNDATION SRPSKA, INC'S
AMENDED AFFIRMATIVE DEFENSES

ATHLETIC FOUNDATION SRPSKA, INC., an Illinois not-for-profit corporation, having a principal place of business at 328 E. Union Ave., Wheaton, Illinois, 60187 ("Registrant"), and for its Amended Affirmative Defenses to Petitioner, FK REPUBLIKA SRPSKA'S Consolidated Petition for Cancellation, states as follows:

GENERAL ALLEGATIONS APPLICABLE TO

ALL AFFIRMATIVE DEFENSES

1. The name and logo for FK Republika Srpska for which Registrant sought and obtained registration were created by Mile Petkovic in 2000, and subsequently adopted by the Registrant. (Hereinafter the name and logo for "FK Republika Srpska" for Class 25 (Reg. No. 3,823,417) and Class 41 (Reg. No. 3,823,424) shall be referred to as "the Registered Marks.")

2. During the years 2001-2006, the respective members of the Registrant and

A

Petitioner belonged to the same soccer team and competed in soccer tournaments and leagues using the Registered Marks.

3. In 2007, one of Petitioner's principals, Alexander Cvijovic, on behalf of Registrant, signed up the team under the name FK Republika Srpska, using the Registered Marks, to play in the National Soccer League.

4. In 2009, Registrant's board of directors removed Petitioner's principals from the soccer team and continued to use the Registered Marks.

5. At no time prior to 2009 did any of Opposer's principals ever object to Registrant's use of the Registered Marks or claim independent ownership to the Registered Marks.

6. In detrimental reliance on Petitioner's failure to object to Registrant's use of the Registered Marks, Registrant expended monies to participate in soccer tournament and recruit members under the Registered Marks, and purchase and wear uniforms bearing the Registered Marks.

7. Petitioner's delay in seeking to enforce its purported rights to the Registered Marks is inexcusable and unreasonable given that it sat idly by for 8 years while Registrant actively and publicly used the Registered Marks.

FIRST AFFIRMATIVE DEFENSE – ACQUIESCENCE

1-7. Registrant realleges paragraphs 1-7 of the General Allegations as though fully set forth herein.

8. Petitioner has failed to adequately protect its alleged rights in the Registered Marks, and has acquiesced to the use of the Registered Marks by Registrant, in that prior to the registration of the Registered Marks, Petitioner failed to object to Registrant's prior

use and claim to ownership of the Registered Marks, as alleged herein.

SECOND AFFIRMATIVE DEFENSE – ESTOPPEL

1-7. Registrant realleges paragraphs 1-7 of the General Allegations as though fully set forth herein.

8. Petitioner has failed to adequately protect its alleged rights in the Registered Marks, and is estopped from claiming ownership to the Registered Marks by Registrant, in that prior to the registration of the Registered Marks, Petitioner failed to object to Registrant's prior use and claim to ownership of the Registered Marks, as alleged herein.

THIRD AFFIRMATIVE DEFENSE – LACHES

1-7. Registrant realleges paragraphs 1-7 of the General Allegations as though fully set forth herein.

8. Petitioner has failed to adequately protect its alleged rights in the Registered Marks, and is barred by laches from claiming ownership to the use of the Registered Marks by Registrant, in that prior to the registration of the Registered Marks, Petitioner failed to object to Registrant's prior use and claim to ownership of the Registered Marks, as alleged herein.

WHEREFORE, for the foregoing reasons, Registrant, Athletic Foundation Srpska, Inc., prays that the Petitioner's Petition to Cancel Registration No. 3,823,417 and Registration No. 3,823,424 be denied with prejudice.

Respectfully Submitted,

ESP, KREUZER, CORES & McLAUGHLIN, LLP

By: /s/ Kenneth S. McLaughlin, Jr.
Kenneth S. McLaughlin, Jr.
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Wheaton, IL 60187
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Email: kmclaughlin@ekcmlawfirm.com
Attorney for Registrant

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 5, 2011, he served a copy of the above-referenced Amended Affirmative Defenses to Consolidated Petition for Cancellation via email only (by agreement) to:

Phillip Barengolts
David Hwang
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